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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,357	06/25/2003	Jeff Braun	021572-000710US	2549

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EXAMINER	
JONES, HEATHER RAE	

ART UNIT	PAPER NUMBER
2621	

NOTIFICATION DATE	DELIVERY MODE
10/08/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/603,357	BRAUN ET AL.	
	Examiner	Art Unit	
	HEATHER R. JONES	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 June 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 June 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Fig. 1, reference character "114"; Fig. 3C, reference characters "352" and "354".

2. The drawings are objected to because in Fig. 3A reference character "202" should be labeled as –320--.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-8, 14, 15, 18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki et al. (U.S. Patent 6,245,982).

Regarding claim **1**, Braun et al. discloses a method for playing back an audio presentation with an accompanying visual presentation, the method comprising detecting a cue (motion component) indicating a characteristic of music of the audio presentation (col. 17, lines 39-49; col. 18, lines 14-26 – motion components are stored in a motion component database); and using the cue to modify a visual presentation in synchronization with the audio presentation (col. 18, lines 14-26 – the motion waveform is changed according to the motion components).

Regarding claim **3**, Braun et al. discloses all the limitations as previously discussed with respect to claim 1 including that the cue is included in a file separate from the audio presentation (col. 17, lines 39-49 - each motion component is stored in the motion database, which is separate from the music file).

Regarding claim **4**, Braun et al. discloses all the limitations as previously discussed with respect to claim 1 including the step of using the cue includes substeps of determining a cue type; and modifying the visual presentation in accordance with the determined cue type (col. 17, lines 39-49; col. 18, lines 14-26 - the motion component may represent different things and therefore needs to

be analyzed and then it is determined how to change the corresponding motion waveform accordingly).

Regarding claim **5**, Braun et al. discloses all the limitations as previously discussed with respect to claims 1 and 4 including that the cue type includes an indication of volume level (col. 18, lines 14-26 - volume).

Regarding claim **6**, Braun et al. discloses all the limitations as previously discussed with respect to claims 1 and 4 including that the cue type includes an indication of frequency band strength (col. 17, lines 50-67).

Regarding claim **7**, Braun et al. discloses all the limitations as previously discussed with respect to claims 1 and 4 including that the cue type includes an indication of a beat in a song (col. 17, lines 50-67 – beats are part of the tempo of the music).

Regarding claim **8**, Braun et al. discloses all the limitations as previously discussed with respect to claims 1 and 4 including that the cue type includes an indication of sub-beats (col. 17, lines 50-67 – sub-beats are part of the tempo of the music).

Regarding claim **14**, Braun et al. discloses all the limitations as previously discussed with respect to claims 1 and 4 including that the cue type includes an indication of a lighting effect (col. 6, lines 55-57).

Regarding claim **15**, Braun et al. discloses all the limitations as previously discussed with respect to claims 1 and 4 including that the cue type includes an indication of MIDI information (Fig. 11; col. 16, lines 21-49).

Regarding claim **18**, Braun et al. discloses a method for authoring visualization, the method using a display screen coupled to a user input device and to a processor, the method comprising the following steps executed by the processor displaying a representation of an audio waveform on the display screen (Figs. 8 and 9); accepting signals from the user input device to create a cue (motion component) at a selected point in the representation of the audio waveform (col. 17, lines 39-49; col. 18, lines 14-26 – motion components are stored in a motion component database); displaying a visual indicator corresponding to the cue adjacent to the representation of the audio waveform near the selected point (Figs. 8 and 9); and storing an indication of the cue at the selected point (col. 18, lines 14-26 – the motion waveform is changed according to the motion components).

Regarding claim **20**, Braun et al. discloses all the limitations as previously discussed with respect to claim 18 including that the step of storing includes storing the indication of the cue in a file separate from data describing the audio wave form (col. 17, lines 39-49 - each motion component is stored in the motion database, which is separate from the music file).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 2 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braun et al. as applied to claims 1 and 18 above, and further in view of Nishitani et al. (U.S. Patent 7,161,079).

Regarding claim **2**, Braun et al. discloses all the limitations as previously discussed with respect to claim 1, but fails to disclose that the cue is included embedded with the audio presentation.

Referring to the Nishitani et al. reference, Nishitani et al. discloses a method wherein the cues are included embedded with the audio presentation (Fig. 6; col. 8, lines 29-37).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have embedded the cues with the audio presentation as disclosed by Nishitani et al. instead of in a separate file as disclosed by Braun et al. in order to easily correlate the audio sample with the cue rather than having to read two separate files and trying to correlate them. Also, embedding the cues into the audio presentation allows the cues to always be accessible because if they were stored in a separate location the other location may be unavailable for some reason.

Regarding claim **19**, Braun et al. discloses all the limitations as previously discussed with respect to claim 18, but fails to disclose that the step of storing includes storing the indication of the cue in a file with data describing the audio waveform.

Referring to the Nishitani et al. reference, Nishitani et al. discloses a method wherein the step of storing includes storing the indication of the cue in a file with data describing the audio waveform (Fig. 6; col. 8, lines 29-37).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have embedded the cues with the audio presentation as disclosed by Nishitani et al. instead of in a separate file as disclosed by Braun et al. in order to easily correlate the audio sample with the cue rather than having to read two separate files and trying to correlate them. Also, embedding the cues into the audio presentation allows the cues to always be accessible because if they were stored in a separate location the other location may be unavailable for some reason.

7. Claims 9-13, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braun et al. as applied to claims 1 and 4 above.

Regarding claims **9-13**, **16**, and **17**, Braun et al. discloses all the limitations as previously discussed with respect to claim 1, but fails to disclose that the cue type includes an indication of a vocal performance, the start of a vocal performance, the presence of a word of vocal performance, a basic speech sound, a phoneme, a non-physical effect, or a human mood. However, Braun et al. discloses in col. 13, line 28 – col. 15, lines 38 that the motion and scene components (cues) can be edited according to the user's liking. Official Notice is taken that the cues can be edited to indicate a vocal performance, the start of a vocal performance, the presence of a word of vocal performance, a basic speech

sound, a phoneme, a non- physical effect, or a human mood. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included cues indicating anything to do with vocals or speech as well a non-physical effect, or a human mood in order for the visual effect of the audio or scene correspond accordingly to create a more enhancing display.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HEATHER R. JONES whose telephone number is (571)272-7368. The examiner can normally be reached on Mon. - Thurs.: 7:00 am - 4:30 pm, and every other Fri.: 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2623

Heather R Jones
Examiner
Art Unit 2621

HRJ
September 25, 2008